



**MINUTES OF THE MEETING OF THE
LEON VALLEY ZONING COMMISSION**

December 16, 2014

The meeting of the Leon Valley Zoning Commission convened at 6:30 p.m. on Tuesday, December 16, 2014, in City Council Chambers at 6400 El Verde Road, Leon Valley, Texas.

I. Roll Call

Present were Chairman Claude Guerra III, 1st Vice-Chair Olen Yarnell, 2nd Vice-Chair Phyllis McMillan and Members Hal Burnside, Pedro Esquivel, Nicole Monsibais, David Jordan and Alternate Member Larry Proffitt and Tony Westrich. Absent and unexcused was Alternate Member David Edwards. Also present was Kristie Flores, Director of Community Development, acting as recording secretary.

Guest: Attorney Clarissa Rodriguez

II. Approval of the Minutes – November 18, 2014

Minutes not ready. Not action taken.

III. Public Hearing and Consideration of a Zoning Amendment to Chapter 14, "Zoning Ordinance" Regarding definitions and permitted uses in general.

Chairman Claude Guerra III opened the third discussion of the zoning amendments regarding "family." Staff reviewed the originally proposed definition of "family" and the existing ordinance. Staff then presented the Zoning Commission with four (4) rewritten alternative definitions as directed by the Commission at the November 18 meeting.

The additional offerings included:

- "Family." One or more persons related by blood, marriage, adoption or guardianship, or a group not to exceed (Insert Number) persons not related by blood or marriage, adoption or guardianship, occupying and living as a single housekeeping dwelling unit.
- "Family" One or more persons occupying a single dwelling unit where all members are related by blood, marriage, adoption or guardianship. No single dwelling unit shall have more than four unrelated individuals, nor shall any "family" have more than (Insert number) unrelated individuals residing with such family.
- "Family" One (1) or more individuals living together as a single housekeeping unit, in which not more than (Insert number) individuals are unrelated by blood, marriage, adoption or guardianship.

Other Legal Recommendations:

- Remove "marriage"
- Add "domestic partners"

The discussion then began with Commission with the new alternatives for reference.

Commissioner Nicole Monsibais noted that she was still concerned that placing a number value in the definition was arbitrary. She also included that at the previous meeting that the terms such as "kitchen" were added to the proposed definition because it was created from a Supreme Court case.

Commissioner Pedro Esquivel asked if there was a Supreme Court case which limited related family members. Attorney Clarissa Rodriguez noted that there was not.

1st Vice Chair Olen Yarnell noted that he was still trying to understand why such an amendment was needed. He wanted to know if related persons were being restricted. He also questioned why there needed to be a number on non-related persons.

Chairman Claude Guerra III clarified that the number being limited was non-related persons. He explained that the need to look at the amendments, as he has gathered from presentations by staff, were because someone, somewhere complained about too many persons living in a home.

Commissioner Pedro Esquivel noted the he did not see why the definition of "family" needed to change over a complaint of too many people. He explained that there are other limiting regulations for those situations. Attorney Rodriguez noted that the present definition was already limiting non-related persons, which was allowed per case law.

Staff noted that when the City Council was presented the information regarding the potential amendment of "family" to address too many persons living in a home they were cautioned by staff and legal counsel that "family" was a delicate topic for courts. Staff agreed to explore tightening up the definition and Attorneys Charlie Zech and Clarissa Rodriguez were asked to draft language which would address the number of persons in a home. The only limiting factor was the six (6) unrelated persons which were cut down to three (3) or half.

Commissioner David Jordan asked how many times the current definition of family had been challenged in court. Attorney Rodriguez noted there were no challenges in their firm's time with the City and Staff noted that there had not been any challenges in her 14 years with the City.

Commissioner David Jordan noted that he was concerned regarding the legal grounds for discriminating against non-related persons by placing a limit on the number. Attorney Rodriguez noted that there was case law that did allow for the regulation of non-related persons for the purpose of zoning regulations.

Commissioner David Jordan asked for clarification on recommendations regarding "domestic partners." He explained that there was a suggestion to use the term in place of "marriage". Attorney Rodriguez noted it was an alternative but that it was not necessary to use it. She further explained that it applied to areas with domestic partnership registries. 2nd Vice-Chair Phyllis McMillan noted that the City did not have a domestic partnership registry. Attorney Rodriguez reiterated that it was optional.

Chairman Claude Guerra III noted that the concern appeared to be with non-related persons and not related persons. He explained that this did not make sense when you could have ten (10) related persons in a home with no problem, but you could only have six (6) non-related persons.

Commissioner Hal Burnside noted that as discussed previously the Commission was going to keep the number at six (6) but the definition could be strengthened to address the other legalities like "not for profit."

Attorney Rodriguez noted that the language was included to ensure that profit was not being made on rooms in the home. She also elaborated that this was why "cost-sharing" was also included to cover the sharing of expenses such as groceries or utilities.

Commissioner Tony Westrich noted that he had mentioned at a previous meeting that if he had a family living with him anything they pay to live in the home is profit. He further noted he was hearing the Commission note the same thing over again which as that perhaps they did not want to make a change to the existing definition

2nd Vice-Chair Phyllis McMillan noted that she liked the way the definition is currently written. She further noted that the existing definition works and is effective the way it is.

Commissioner Pedro Esquivel reviewed the Commission's statutory requirements were 1) act on a motion to recommend approval or denial, or 2) table the motion. Staff and the attorney agreed but noted that tabling could not be indefinitely.

Chairman Claude Guerra III noted he was going to close the Commission discussion temporarily to open the public hearing at 7:30p.m. Staff addressed the audience noting that if anyone wanted to speak they just needed to come to the podium and state their name and address for the record.

Mike K. Davis, Forest Shadow, noted that he agreed with 2nd Vice-Chair McMillan there has not been an issue with the way the definition is currently written. He also noted that in his opinion Commissioners are on the committee to vote and should not use tabling matters to continually put them off.

Chris Parr, 7214 Forest Meadow, working with Claudia Mora in Economic Development and he has been told that the City is growing and there are many opportunities for moving forward. He noted that he did not understand the amendments and asked if there was a benefit to the City of Leon Valley in making the changes. He noted that it is just him and his wife but they have six (6) vehicles some of which he parks in the street. He explained that if he was not able to park them he would have to rethink why he was living in the City. He noted that the Commission should look at what other cities are doing. He noted that if there have not been complaints or permit issues then why change the definition of family. He expressed that he would open the door to his family if they needed him. He also noted that he felt that it all came down to common courtesy and the need for neighbors to communicate with one another and express their concerns; work with one another and look out for one another.

Oswald Parker, Weathered Post, does not agree with Mr. Parr on vehicles and extra persons in homes. He wants persons respecting the regulations of the R-1 district. He does not like that there are extra vehicles and people and if they are violating the ordinance he does not believe that they should do so.

The Chairman closed the public hearing at 7:43 p.m.

Chairman Guerra III noted that for parking the Commission deliberated at the previous meeting and recommended that no amendments be made to the parking regulation. He noted that the remaining amendment to address was the definition of "family."

Commissioner Larry Proffitt noted that he felt that the ordinance was meant to protect residents. He explained that in his estimation the Code guaranteed two (2) spaces.

Being no further discussion on parking, Commissioner Esquivel returned to the discussion of "family." He noted that the discussion remained the same and proceeded to motion.

Commissioner Pedro Esquivel made a motion to recommend that the definition of "family" remain as it is presently written in the Zoning Code. 1st Vice-Chair Olen Yarnell seconded the motion. Chairman Guerra III noted that what he was hearing from the Commission was that there did not appear to be a number of complaints regarding number or persons in a home and that there did not appear to be a reason to affect the definition of "family." He also expressed the Commission held lengthy and thoughtful consideration of the proposed amendment and after all the information was presented still did not see a need for the change. A roll call vote was taken and the motion passed by unanimous voice vote, 7-0.

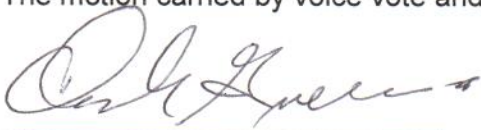
1st Vice-Chair Olen Yarnell asked for a discussion of "commercial vehicles" for a future agenda.

IV. Executive Session in Accordance with the Texas Local Government Code

There was neither item, nor action necessary for this session.

V. ADJOURN

Commissioner Pedro Esquivel made a motion to adjourn, seconded by 1st Vice-Chair Olen Yarnell. The motion carried by voice vote and the meeting was adjourned at 7:56 p.m.



CHAIR



STAFF